

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

Mark R. Mandeville

v.

Civil No. 05-cv-92-JD

Carole A. Anderson, et al.

O R D E R

The court granted in part and denied in part the defendants' motions to dismiss Mark Mandeville's Americans with Disabilities Act claims. The claims against individual defendants were dismissed, and the claims were deemed to be claims against the Merrimack County Department of Corrections. The defendants move for reconsideration, contending that neither the Department of Corrections nor the county is a party in this case.

Mandeville initiated the case with a pro se complaint and is proceeding in forma pauperis. He is now represented by counsel. The record is not clear but suggests that Mandeville intended to sue the Superintendent and Assistant Superintendent of the Department of Corrections in their official capacities. As held in the previous order, Mandeville's ADA claims are deemed to be brought against the Department of Corrections. Because Carole Anderson and Richard Doucette were no longer serving in their official capacities when they were served, however, it is unclear whether service had been made on the Department of Corrections.

Therefore, counsel shall confer and determine whether service had been made on the Department of Corrections and, if not, whether the Department will waive service under Federal Rule of Civil Procedure 4(d). Mandeville is allowed **thirty days** from the date of this order to file notice that service has been made on the Department of Corrections. The Department shall file its answer within the time allowed under the federal rules.

Conclusion

For the foregoing reasons, the defendants' motion for reconsideration (document no. 74) is denied. Service on the Department of Corrections shall be completed as provided in this order.

SO ORDERED.


Joseph A. DiClerico, Jr.
United States District Judge

October 10, 2007

cc: W. Kirk Abbott, Jr., Esquire
Charles P. Bauer, Esquire
John a. Curran, Esquire
Elizabeth L. Hurley, Esquire
Lisa Lee, Esquire
Daniel J. Mullen, Esquire
Michael J. Sheehan, Esquire
Ralph Suozzo, Esquire